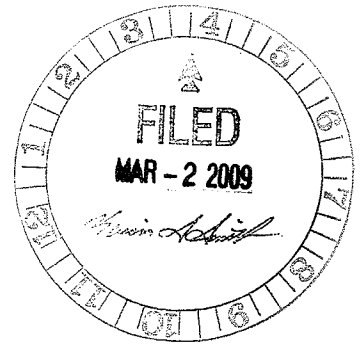


In the  
**Indiana Supreme Court**



IN THE MATTER OF	)	Supreme Court No. 71S00-0902-SJ-54
	)	
REAL ESTATE ACQUIRED AND USED	)	Case No. 71J01-0902-JM-1
FOR THE JUVENILE JUSTICE CENTER	)	in the St. Joseph Probate Court

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IN THE MATTER OF	)	Supreme Court No. 71S00-0902-SJ-55
	)	
THE FUNDING OF BUILDING AND	)	
STRUCTURAL REPAIRS AND	)	
EQUIPMENT FOR THE JUVENILE	)	Case No. 71J01-0902-JM-2
JUSTICE CENTER	)	in the St. Joseph Probate Court

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IN THE MATTER OF	)	Supreme Court No. 71S00-0902-SJ-56
	)	
THE APPROPRIATION OF FUNDS	)	
FROM THE JUVENILE PROBATION	)	
SERVICES FUND FOR CERTAIN	)	Case No. 71J01-0902-JM-3
SALARY INCREASES	)	in the St. Joseph Probate Court

ORDER REFERRING CASE FOR MEDIATION

Indiana Trial Rule 60.5 establishes procedures by which intra-county disagreements about court funding may be resolved. We have noted elsewhere that these procedures are infrequently invoked in Indiana. See Montgomery County Council v. Milligan, 873 N.E.2d 1043, 1045 (Ind. 2007).

On February 4, 2009, the Honorable Peter J. Nemeth, Judge of the St. Joseph Probate Court, issued orders of mandate in each of the above captioned matters. He ordered the Board of Commissioners and the County Council of St. Joseph County to appear and show cause on

March 9, 2009 at 1:30 p.m. why his orders should not be continued in full force and effect. Pursuant to T.R. 60.5, Judge Nemeth filed his orders with this Court on February 10, 2009.

Also on February 4, 2009, this Court issued an Order, effective that date, amending T.R. 60.5. The amendments to the rule were based upon recommendations made by a joint task force of the Indiana Judges Association and the Association of Indiana Counties and we express our appreciation to the involved individuals. Their work is representative of the attitude and approach that we take to this dispute, namely, that while courts must have the funds reasonably necessary for their operation and court-related functions, county fiscal bodies face severe fiscal pressure from spending requirements under federal and state law, by changes in state property tax laws and regulations, and as a result of the current global economic crisis.

One of the new amendments to T.R. 60.5 authorizes this Court to order the parties to submit their dispute to mediation at any time in the process. We believe that mediation is appropriate here. Accordingly, the Court DIRECTS as follows:

1. This case is referred to mediation. See T.R. 60.5 (as amended Feb. 4, 2009); Ind. Appellate Rule 20; Ind. Alternative Dispute Resolution Rules 1.6, 2.2.

2. Within 15 days of this order, the parties may: (a) choose a mediator from the Continuing Legal Education Commission's registry; or (b) agree upon a non-registered mediator, who must be approved by this Court and who shall serve with leave of this Court. See A.D.R. 2.4.

3. In the event that the parties do not notify this Court that they have selected an agreed mediator within 15 days of this order, the Court will designate one or more registered mediators from the Commission's registry.

4. The Court expects the mediation process to begin immediately and to proceed with all due deliberate focus. To this end, the parties are afforded up to five (5) weeks from the date of this order within which to seek a mediated resolution of their differences. The mediator or mediators shall submit a mediation report in compliance with A.D.R. 2.7(E)(1) within ten (10) days

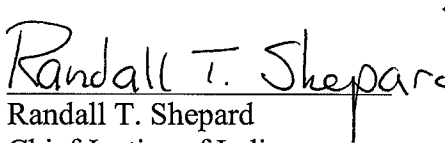
after completion of the mediation process, but no later than April 15, 2009. If an agreement is reached, the parties shall comply with A.D.R. 2.7(E)(2) by April 15, 2009. These documents shall be submitted to this Court, with a copy provided to the trial court. The Court will then take the matter under advisement and issue further orders as appropriate.

5. Jurisdiction over this case shall remain with this Court.

IT IS FURTHER ORDERED that the Rules to Show Cause in the captioned matters, set for hearing on March 9, 2009, at 1:30 p.m., are continued until further order of this Court.

The Clerk of this Court is directed to forward notice of this Order to the Hon. Peter J. Nemeth, St. Joseph Probate Court, 1000 South Michigan Street, South Bend, IN 46601-3426; and to Mr. James F. Groves and Mr. David E. Ballard, Lee, Groves & Zalas, 205 West Jefferson Blvd., Suite 502, South Bend, IN 46601.

DONE at Indianapolis, Indiana, this 2d day of March, 2009.

  
Randall T. Shepard  
Chief Justice of Indiana

All Justices concur.